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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,344	12/22/1999	DANIEL I. KERPELMAN	GEMS;0065/	6033

7590 09/25/2002

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EXAMINER	
MORGAN, ROBERT W	

ART UNIT	PAPER NUMBER
3626	

DATE MAILED: 09/25/2002

Remailed

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/470,344	KERPELMAN ET AL.	
	Examiner	Art Unit	
	Robert W. Morgan	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-60 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-60 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

Response to Amendment

1. The amendment filed 5/10/02 has been entered and now claims 1-60 are presented for examination.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,260,021 to Wong et al., for substantially the same reasons given in the previous Office Action (paper number 6).

Claims 1-60 have not been amended, and are rejected for the same reasons given in the previous Office Action (paper number 6), and incorporated herein.

Response to Arguments

4. Applicant's arguments filed 5/10/02 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 5/10/02.

In the remarks, applicants argue in substance that, (1) Wong et al. reference does not teach workstations that transmits client data to a remote service provider and a data communications control system coupled to an internal network, and the applicant also requests support under M.P.E.P § 2144.03 for what is "well known in the art"; (2) Wong et al. reference

does not teach or suggest a medical diagnostic imaging system on the same internal network as the client; (3) Wong et al. fail to teach or suggest a data communication control system or the ability of the client to transmit client data to a remote service provider using external network interface and the applicant requests support under M.P.E.P § 2144.03 for what is " well known in the art"; and (4) Wong et al. reference does not teach or suggest a physically mobile client and the applicant requests support under M.P.E.P § 2144.03 for what is "well known in the art".

In response to Applicant's argument that (1) Wong et al. reference does not teach workstations that transmits client data to a remote service provider and a data communications control system coupled to an internal network, and the applicant also requests support under M.P.E.P § 2144.03 for what is "well known in the art". The Examiner respectfully submits that the reference of Wong et al. (see: column 3, lines 60 to column 4, lines 15) teaches the use of network-client workstations configured with object-oriented graphical interface for receiving medical image requests from a user and in order for the medical image requests to be initiated by a user, the request data, which is considered "client data", is transmitted from the client workstation. Additionally, Wong et al. (see: column 8, lines 53-64) teach the use of links (36, Fig. 1) implemented with the TCP/IP suite of protocols that could be campus intranet, a wide-area intranet or even the Internet.

In addition, the response to Applicant's request for a reference or an affidavit to support the Official Notice taken in the prior Office Action of "data communications control system transmitting client data to a remote service provider". The Examiner hereby directs Applicant's attention to the copies provided from the Microsoft Computer Dictionary (cited herewith) with definition of a Domain Name System (DNS), Domain Name System (DNS) Server and remote

access service, which is clearly evidence that while using the Internet as indication by the reference of Wong et al., a data communication control system utilize DNS and DNS Server to provide addresses enabling computer to access and connect with a server for receiving and transfer information. As such, the knowledge and use of data communications control system for transmitting client data to a remote service provider has clearly existed in the art prior to Applicant's claimed invention and the courts have held that even if a patent does not specifically disclose a particular element, said element being within the knowledge of a skilled artisan, the patent taken in combination with that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36 USPQ 2d 1697 (Fed. Cir. 1995).

In response to Applicant's argument that (2) Wong et al. reference does not teach or suggest a medical diagnostic imaging system on the same internal network as the client. The reference of Wong et al. teach the use of network-client workstations configured with object-oriented graphical interface for receiving medical image requests from a user and links (36, Fig. 1) implemented with the TCP/IP suite of protocols that could be campus intranet, a wide-area intranet or even the Internet (see: column 3, lines 60 to column 4, lines 15 and column 8, lines 53-64). This indicates that a user at client workstation requests medical images over an internal/external network. With respects to Applicant's assertion that the Examiner defined the network as taught by Wong et al. as only an internal network, it is respectfully submitted that Applicant read the teaching of Wong et al. as whole and not just the Examiner interpretation of the prior art. The reference of Wong et al. taught as whole discloses a network that could be a campus intranet, a wide-area intranet or even the Internet (see: column 8, lines 53-64), thereby

demonstrating that a request for medical images could be made either over an internal or external network.

In response to Applicant's argument that (3) Wong et al. fail to teach or suggest a data communication control system or the ability of the client to transmit client data to a remote service provider using external network interface and the applicant requests support under M.P.E.P § 2144.03 for what is "well known in the art". The Examiner, respectfully submits that the reference of Wong et al. (see: column 3, lines 60 to column 4, lines 15) teaches the use of network-client workstations configured with object-oriented graphical interface for receiving medical image requests from a user and in order for the medical image requests to be initiated by a user, the request data, which is considered "client data", is transmitted from the client workstation. Additionally, Wong et al. (see: column 8, lines 53-64) teach the use of links (36, Fig. 1) implemented with the TCP/IP suite of protocols that could be campus intranet, a wide-area intranet or even the Internet as a result a user at a client workstation could requests medical images over a network, which could be internal or external.

In response to Applicant's argument that (4) Wong et al. reference does not teach or suggest a physically mobile client and the applicant requests for support under M.P.E.P § 2144.03 for what is "well known in the art". The Examiner directs Applicant's attention to U.S. Patent No. 5,924,074 (cited herewith), which clearly evidences the use of laptop computer to access local area network (LAN) and wide area network (WAN) as far back as 1998 (see: column 12, lines 55 to column 13, lines 15 and Fig. 24). As such, the knowledge and use of laptop or physically mobile clients over a network, has clearly existed in the art prior to Applicant's claimed invention and the courts have held that even if a patent does not specifically

disclose a particular element, said element being within the knowledge of a skilled artisan, the patent taken in combination with that knowledge, would put the artisan in possession of the claimed invention. *In re Graves*, 36 USPQ 2d 1697 (Fed. Cir. 1995).

Conclusion

5. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Morgan whose telephone number is 703-605-4441. The examiner can normally be reached on 8:30 a.m. - 5:00 p.m. Mon - Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

RWM
rwm
July 23, 2002

JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600